IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 04 of 2006

Smt. Asgari
D/o Hazi Karimmudin
R/o Manglore
Pargana & Tehsil- Roorkee
District- Haridwar ……..Revisionist

Versus

1. Fazzaidin
   S/o Hazi Karimmudin
   R/o Moh. Bander Toll Pargana Manglore
   Tehsil- Roorkee, District- Haridwar.
2. Jayveer
   S/o Dharamveer
   R/o Vill. Liberheri
   Pargana Manglore
   Tehsil- Roorkee, District- Haridwar.
3. Shah Jma
   S/o M.S. Aarfin
   R/o Moh. Killa
   Pargana Manglore
   Tehsil- Roorkee, District- Haridwar. ….Respondents

Shri Munish Bhardwaj, learned counsel for the revisionist.
Shri Manish Arora, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the revisionist.

2. Shri Manish Arora, Advocate represents respondents No. 2 and 3. He accepts notices on behalf of the two respondents.

3. It appears that plaintiff/respondent No. 1 instituted a civil suit No. 118 of 2003, before the trail court for injunction against respondents No. 2 and 3, claiming title over the land in suit. The revisionist is the third party, who moved an application for her impleadment before the trail court under Order I Rule 10 of the Code of Civil Procedure, 1908, claiming herself as a shareholder in the land in suit.

4. The impugned order shows that the application of the revisionist was rejected on the ground that the land in question is an agricultural land and inheritance is to be determined not on the basis of personal law but on the basis of provisions contained in U.P. Z.A. & L.R. Act. 1950. The question prima-facie arises if it is an agricultural land and title of plaintiff is disputed than how the civil court has jurisdiction to try the suit. Learned counsel for the revisionist argued that there is already an issue framed in respect of the question- whether the plaintiff is the owner and in possession of property in suit or not?

5. In the circumstances, the order dated 16.01.2006 passed in aforesaid suit No. 118 of 2003, passed by the trial court is set aside. The application for impleadment (134 C-2), moved before the trail court shall stand allowed. The plaintiff shall implead the applicant as an additional defendant. The newly impleaded defendant will have a right to file the written statement and additional issues, if any, would be framed before the final hearing.

6. With these observations, the revision is disposed of summarily.

(Prafullla C. Pant, J.)

Dt: 13th February, 2006
Sweta